

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GLORIA A. BARRIOS, State Bar No. 94811
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2540
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:

12 JEFFREY D. MILLER
13 1227 Cota Ave.
14 Torrance, CA 90501

15 Registered Nurse License No. 463913

16 Respondent.

Case No. 2005-105

**FIRST AMENDED ACCUSATION
AND PETITION TO REVOKE
PROBATION**

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended
20 Accusation and Petition to Revoke Probation solely in her official capacity as Interim Executive
21 Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

22 2. On or about March 31, 1991, the Board issued Registered Nurse License
23 No. 463913 to Jeffrey D. Miller (Respondent). The Registered Nurse License expired on August
24 31, 2008, and has not been renewed.

25 3. In a disciplinary action entitled "In the Matter of Accusation Against
26 Jeffrey D. Miller," Case No. 2005-105, the Board issued its decision, effective December 30,
27 2005, in which Respondent's Registered Nurse License was revoked, revocation stayed, and

28 ///

1 placed on probation for a period of three (3) years with certain terms and conditions. A copy of
2 that decision is attached as Exhibit A and is incorporated by reference.

3 JURISDICTION

4 4. This First Amended Accusation and Petition to Revoke Probation is
5 brought before the Board, under the authority of the following laws. All section references are to
6 the Business and Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Code states:

9 "Every certificate holder or licensee, including licensees holding temporary
10 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
11 in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used
12 in this article, "license" includes certificate, registration, or any other authorization to engage in
13 practice regulated by this chapter. The proceedings under this article shall be conducted in
14 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
15 of the Government Code [the Administrative Procedure Act], and the board shall have all the
16 powers granted therein."

17 6. Section 2761 states:

18 "The board may take disciplinary action against a certified or licensed nurse or
19 deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the following:

21f.

22 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
24 Nursing Practice Act] or regulations adopted pursuant to it.

25

26 (f) Conviction of a felony or of any offense substantially related to the
27 qualifications, functions, and duties of a registered nurse, in which event the record of the
28 conviction shall be conclusive evidence thereof."

1 7. Section 2762 states:

2 "In addition to other acts constituting unprofessional conduct within the meaning
3 of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of
4 the following:

5

6 (b) Use any controlled substance as defined in Division 10 (commencing with
7 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
8 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
9 injurious to himself or herself, any other person, or the public or to the extent that such use
10 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
11 license.

12 (c) Be convicted of a criminal offense involving the prescription, consumption, or
13 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
14 or the possession of, or falsification of a record pertaining to, the substances described in
15 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
16 thereof."

17 8. Section 2764 states:

18 "The lapsing or suspension of a license by operation of law or by order or decision
19 of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not
20 deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding
21 against such license, or to render a decision suspending or revoking such license."

22 9. Section 490 of the Code states:

23 "A board may suspend or revoke a license on the ground that the licensee has
24 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
25 duties of the business or profession for which the license was issued. A conviction within the
26 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
27 contendere. Any action which a board is permitted to take following the establishment of a
28 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has

1 been affirmed on appeal, or when an order granting probation is made suspending the imposition
2 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
3 Penal Code.”

4 10. California Code of Regulations, title 16, section 1444, states:

5 "A conviction or act shall be considered to be substantially related to the
6 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
7 present or potential unfitness of a registered nurse to practice in a manner consistent with the
8 public health, safety, or welfare.”

9 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
10 request the administrative law judge to direct a licensee found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 ACCUSATION

14 FIRST CAUSE FOR DISCIPLINE

15 **(Conviction of Substantially Related Crime)**

16 12. Respondent is subject to disciplinary action under section 2761,
17 subdivision (f), and 490 of the Code, as defined in California Code of Regulations, title 16,
18 section 1444, in that Respondent has been convicted of a crime substantially related to the
19 qualifications, functions or duties of a registered nurse, as follows:

20 A. On or about January 10, 2007, Respondent was convicted by the court on
21 a plea of nolo contendere for violating one count of Vehicle Code section 23152, subdivision (b),
22 a misdemeanor (driving while having a 0.08% or higher blood alcohol), in the Superior Court of
23 California, County of Los Angeles, Norwalk Judicial District, Case No. 6BF0551101 entitled
24 *The People of the State of California v. Jeffrey Darlington Miller*.

25 B. On or about May 5, 2009, Respondent was arrested for driving while
26 having a 0.08% or higher blood alcohol (Vehicle Code section 23152, subdivision (b)) by the Los
27 Angeles County Sheriff's Department in violation of his probation.

28 ///

1 C. The circumstances surrounding the conviction are that on or about
2 September 28, 2006, Respondent drove a motor vehicle while having 0.08% and more of alcohol
3 in his blood.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol)**

6 13. Respondent's license is subject to disciplinary action under section 2761,
7 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in section
8 2762, subdivision (b), in that on or about September 28, 2006, Respondent used alcoholic
9 beverages to an extent or in a manner dangerous or injurious to himself, and the public, when he
10 operated a vehicle, while having a 0.08% and more of alcohol in his blood, as set forth in
11 paragraph 12 above.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Conviction Involving the Consumption of Alcohol)**

14 14. Respondent's license is subject to disciplinary action under section 2761,
15 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in section
16 2762, subdivision (c), in that on or about January 10, 2007, Respondent was convicted of a crime
17 involving the consumption of alcohol, as set forth in paragraph 12 above.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20 15. Respondent's license is subject to disciplinary action under section 2761,
21 subdivisions (a) and (d) of the Code, on the grounds of unprofessional conduct, in that
22 Respondent violated the Administrative Decision and Order, "In the Matter of the Accusation
23 Against: Jeffrey D. Miller, Case No. 2005-105, incorporated herein by reference.

24 **PETITION TO REVOKE PROBATION**

25 **CAUSE TO REVOKE PROBATION**

26 **(Violation of Administrative Decision and Order)**

27 16. Respondent is subject to having his probation and license revoked, in that
28 Respondent violated certain terms and conditions of probation, as follows:

At all times after the effective date of Respondent's probation, Conditions 1, 2, 12, 15, 16, and 17 of the Director's Administrative Decision and Order stated:

Condition 1: Obey All Laws. "Respondent shall obey all federal, state, and local laws. A full and detailed account of any and all violations of the law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process."

Criminal Court Orders: If respondent is under criminal orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation."

Condition 2: Comply with the Board's Probation Program. "Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active current license status with the Board, including during any period of suspension."

"Upon successful completion of probation, Respondent license shall be fully restored."

Condition 12: Violation of Probation. "If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license."

"If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare and accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or

petition has been action upon by the Board.”

Condition 15: Participate in Treatment/Rehabilitation Program for Chemical

Dependence. “Respondent, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.”

“Based on Board recommendation, each week Respondent shall be required to attend at least one, but not more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.”

Condition 16: Abstain from Use of Psychotropic (Mood-Altering) Drugs.

“Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent’s prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.”

“Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent’s history of substance abuse and will

1 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
2 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
3 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
4 condition. If any substances considered addictive have been prescribed, the report shall identify a
5 program for the time limited use of any such substances."

6 "The Board may require the single coordinating physician, nurse practitioner, or
7 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
8 addictive medicine."

9 Condition 17: Submit to Tests and Samples. "Respondent, at his expense, shall
10 participate in a random, biological fluid testing or a drug screening program which the Board
11 approves. The length of time and frequency will be subject to approval by the Board.
12 Respondent is responsible for keeping the Board informed of Respondent's current telephone
13 number at all times. Respondent shall also ensure that messages may be left at the telephone
14 number when he is not available and ensure that reports are submitted directly by the testing
15 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
16 to the Board by the program and Respondent shall be considered in violation of probation."

17 "In addition, Respondent, at any time during the period of probation, shall fully
18 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
19 tests and samples as the Board or its representatives may require for the detection of alcohol,
20 narcotics, hypnotics, dangerous drugs, or other controlled substances."

21 "If Respondent has a positive drug screen for any substance not legally authorized
22 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
23 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
24 from practice pending the final decision on the petition to revoke probation or the accusation.
25 This period of suspension will not apply to the reduction of this probationary time period."

26 "If Respondent fails to participate in a random, biological fluid testing or drug
27 screening program within the specified time frame, Respondent shall immediately cease practice
28 and shall not resume practice until notified by the Board. After taking into account documented

evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.”

GROUNDS FOR REVOKING PROBATION

17. Grounds exist for revoking probation and imposing the order of revocation of Respondent's license for failing to comply with the following terms:

Condition No. 1: Respondent failed to obey all laws, as follows:

a. On or about January 10, 2007, Respondent was convicted by the court on a plea of nolo contendere for violating one count of Vehicle Code section 23152, subdivision (b), a misdemeanor (driving while having a 0.08% or higher blood alcohol), in the Superior Court of California, County of Los Angeles, Norwalk Judicial District, Case No. 6BF0551101 entitled *The People of the State of California v. Jeffrey Darlington Miller*.

b. In addition, Respondent, by his own admission, admitted to diverting morphine from his job at Little Company of Mary in San Pedro, California.

c. On or about May 5, 2009, Respondent was arrested for driving while having a 0.08% or higher blood alcohol (Vehicle Code section 23152, subdivision (b)) by the Los Angeles County Sheriff's Department in violation of his probation.

Condition No. 2: Respondent failed to fully comply with the conditions of the Board's probation program, by failing to comply with Conditions Nos. 1, 12, 15, 16, and 17 above.

Condition No. 12: Respondent violated the conditions of his probation, as indicated in Conditions Nos. 1, 2, 15, 16, and 17 above.

Condition No. 15: Respondent failed to participate in a treatment or rehabilitation program, by failing to provide evidence of participation in a Nurse Support Group and Alcoholics Anonymous or Narcotics Anonymous meetings.

Condition No. 16: Respondent failed to abstain for the use of mind-altering drugs, by his own admission in his letter, dated December 13, 2006, admitting to the use of

1 alcohol, crack, heroin, morphine, and opiates.

2 Condition No. 17: Respondent failed to submit to tests and samples by failing to
3 test on August 30, 2006, September 26, 2006, October 19, 2006, November 2, 2006,
4 November 21, 2006, and December 6, 2006.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

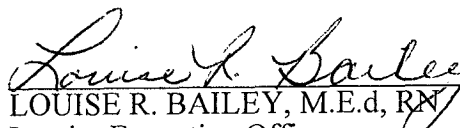
8 1. Revoking the probation that was granted by the Board of Registered
9 Nursing in Case No.2005-105 and imposing the disciplinary order that was stayed thereby
10 revoking Registered Nurse License No. 463913 issued to Jeffrey D. Miller;

11 2. Revoking or suspending Registered Nurse License No. 463913, issued to
12 Jeffrey D. Miller;

13 3. Ordering Jeffrey D. Miller to pay the Board of Registered Nursing the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;

16 4. Taking such other and further action as deemed necessary and proper.

17 DATED: 2/1/10

18
19 
20 LOUISE R. BAILEY, M.E.d, RN
21 Interim Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant

25 LA2007600383
26 MILL.PET.WPD

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2005-105

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA S. BARRIOS
Supervising Deputy Attorney General
3 BARRY A. THORPE, State Bar No. 126422
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-5845
6 Facsimile: (213) 897-2804
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 2005-105

12 JEFFREY D. MILLER
13 763 West 11th Street
14 San Pedro, CA 90731

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

15 Registered Nurse License No. 463913

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation and
20 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board
21 of Registered Nursing (Board), Department of Consumer Affairs.

22 2. On or about March 31, 1991, the Board issued Registered Nurse License
23 No. 463913 to Jeffrey D. Miller (Respondent). The Registered Nurse License will expire on
24 August 31, 2008, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of Accusation Against
26 Jeffrey D. Miller," Case No. 2005-105, the Board issued its decision, effective December 30,
27 2005, in which Respondent's Registered Nurse License was revoked, revocation stayed, and
28 ///

1 placed on probation for a period of three (3) years with certain terms and conditions. A copy of
2 that decision is attached as Exhibit A and is incorporated by reference.

3 JURISDICTION

4 4. This Accusation and Petition to Revoke Probation is brought before the
5 Board, under the authority of the following laws. All section references are to the Business and
6 Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Code states:

9 "Every certificate holder or licensee, including licensees holding temporary
10 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
11 in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used
12 in this article, "license" includes certificate, registration, or any other authorization to engage in
13 practice regulated by this chapter. The proceedings under this article shall be conducted in
14 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
15 of the Government Code [the Administrative Procedure Act], and the board shall have all the
16 powers granted therein."

17 6. Section 2761 states:

18 "The board may take disciplinary action against a certified or licensed nurse or
19 deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the following:

21

22 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
24 Nursing Practice Act] or regulations adopted pursuant to it.

25

26 (f) Conviction of a felony or of any offense substantially related to the
27 qualifications, functions, and duties of a registered nurse, in which event the record of the
28 conviction shall be conclusive evidence thereof."

1 7. Section 2762 states:

2 "In addition to other acts constituting unprofessional conduct within the meaning
3 of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of
4 the following:

5

6 (b) Use any controlled substance as defined in Division 10 (commencing with
7 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
8 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
9 injurious to himself or herself, any other person, or the public or to the extent that such use
10 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
11 license.

12 (c) Be convicted of a criminal offense involving the prescription, consumption, or
13 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
14 or the possession of, or falsification of a record pertaining to, the substances described in
15 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
16 thereof."

17 8. Section 2764 states:

18 "The lapsing or suspension of a license by operation of law or by order or decision
19 of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not
20 deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding
21 against such license, or to render a decision suspending or revoking such license."

22 9. Section 490 of the Code states:

23 "A board may suspend or revoke a license on the ground that the licensee has
24 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
25 duties of the business or profession for which the license was issued. A conviction within the
26 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
27 contendere. Any action which a board is permitted to take following the establishment of a
28 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has

1 been affirmed on appeal, or when an order granting probation is made suspending the imposition
2 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
3 Penal Code.”

4 10. California Code of Regulations, title 16, section 1444, states:

5 "A conviction or act shall be considered to be substantially related to the
6 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
7 present or potential unfitness of a registered nurse to practice in a manner consistent with the
8 public health, safety, or welfare.”

9 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
10 request the administrative law judge to direct a licensee found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 ACCUSATION

14 FIRST CAUSE FOR DISCIPLINE

15 (Conviction of Substantially Related Crime)

16 12. Respondent is subject to disciplinary action under section 2761,
17 subdivision (f), and 490 of the Code, as defined in California Code of Regulations, title 16,
18 section 1444, in that Respondent has been convicted of a crime substantially related to the
19 qualifications, functions or duties of a registered nurse, as follows:

20 A. On or about January 10, 2007, Respondent was convicted by the court on
21 a plea of nolo contendere for violating one count of Vehicle Code section 23152, subdivision (b),
22 a misdemeanor (driving while having a 0.08% or higher blood alcohol), in the Superior Court of
23 California, County of Los Angeles, Norwalk Judicial District, Case No. 6BF0551101 entitled
24 *The People of the State of California v. Jeffrey Darlington Miller*.

25 B. The circumstances surrounding the conviction are that on or about
26 September 28, 2006, Respondent drove a motor vehicle while having 0.08% and more, by weight
27 of alcohol in his blood.

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 13. Respondent's license is subject to disciplinary action under section 2761,
4 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in section
5 2762, subdivision (b), in that on or about September 28, 2006, Respondent used alcoholic
6 beverages to an extent or in a manner dangerous or injurious to himself, and the public, when he
7 operated a vehicle, while having a 0.08% and more, by weight of alcohol in his blood, as set forth
8 in paragraph 12 above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Conviction Involving the Consumption of Alcohol)**

11 14. Respondent's license is subject to disciplinary action under section 2761,
12 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in section
13 2762, subdivision (c), in that on or about January 10, 2007, Respondent was convicted of a crime
14 involving the consumption of alcohol, as set forth in paragraph 12 above.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 15. Respondent's license is subject to disciplinary action under section 2761,
18 subdivisions (a) and (d) of the Code, on the grounds of unprofessional conduct, in that
19 Respondent violated the Administrative Decision and Order, "In the Matter of the Accusation
20 Against: Jeffrey D. Miller, Case No. 2005-105, incorporated herein by reference.

21 **PETITION TO REVOKE PROBATION**

22 **CAUSE TO REVOKE PROBATION**

23 **(Violation of Administrative Decision and Order)**

24 16. Respondent is subject to having his probation and license revoked, in that
25 Respondent violated certain terms and conditions of probation, as follows:

26 At all times after the effective date of Respondent's probation, Conditions 1, 2,
27 12, 15, 16, and 17 of the Director's Administrative Decision and Order stated:

28 Condition 1: Obey All Laws. "Respondent shall obey all federal, state, and local

1 laws. A full and detailed account of any and all violations of the law shall be reported by
2 Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit
3 monitoring of compliance with this condition, Respondent shall submit completed fingerprint
4 forms and fingerprint fees within 45 days of the effective date of the decision, unless previously
5 submitted as part of the licensure application process.”

6 “**Criminal Court Orders:** If respondent is under criminal orders, including
7 probation or parole, and the order is violated, this shall be deemed a violation of these probation
8 conditions, and may result in the filing of an accusation and/or petition to revoke probation.”

9 Condition 2: Comply with the Board’s Probation Program. “Respondent shall
10 fully comply with the conditions of the Probation Program established by the Board and
11 cooperate with representatives of the Board in its monitoring and investigation of the
12 Respondent’s compliance with the Board’s Probation Program. Respondent shall inform the
13 Board in writing within no more than 15 days of any address change and shall at all times
14 maintain an active current license status with the Board, including during any period of
15 suspension.”

16 “Upon successful completion of probation, Respondent license shall be fully
17 restored.”

18 Condition 12: Violation of Probation. “If Respondent violates the conditions of
19 his probation, the Board after giving Respondent notice and an opportunity to be heard, may set
20 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent’s
21 license.”

22 “If during the period of probation, an accusation or petition to revoke probation
23 has been filed against Respondent’s license or the Attorney General’s Office has been requested
24 to prepare and accusation or petition to revoke probation against Respondent’s license, the
25 probationary period shall automatically be extended and shall not expire until the accusation or
26 petition has been action upon by the Board.”

27 Condition 15: Participate in Treatment/Rehabilitation Program for Chemical
28 **Dependence.** “Respondent, at his expense, shall successfully complete during the probationary

1 period or shall have successfully completed prior to commencement of probation a Board-
2 approved treatment/rehabilitation program of at least six months duration. As required, reports
3 shall be submitted by the program on forms provided by the Board. If Respondent has not
4 completed a Board-approved treatment/rehabilitation program prior to commencement of
5 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
6 a program. If a program is not successfully completed within the first nine months of probation,
7 the Board shall consider Respondent in violation of probation.”

8 “Based on Board recommendation, each week Respondent shall be required to
9 attend at least one, but not more than five 12-step recovery meetings or equivalent (e.g.,
10 Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and
11 directed by the Board. If a nurse support group is not available, an additional 12-step meeting or
12 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
13 such attendance to the Board during the entire period of probation. Respondent shall continue
14 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
15 mental health examiner and/or other ongoing recovery groups.”

16 **Condition 16: Abstain from Use of Psychotropic (Mood-Altering) Drugs.**

17 “Respondent shall completely abstain from the possession, injection or consumption by any route
18 of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except
19 when the same are ordered by a health care professional legally authorized to do so as part of
20 documented medical treatment. Respondent shall have sent to the Board, in writing and within
21 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
22 dosage, the date the medication was prescribed, the Respondent’s prognosis, the date the
23 medication will no longer be required, and the effect on the recovery plan, if appropriate.”

24 “Respondent shall identify for the Board a single physician, nurse practitioner or
25 physician assistant who shall be aware of Respondent’s history of substance abuse and will
26 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
27 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
28 assistant shall report to the Board on a quarterly basis Respondent’s compliance with this

1 condition. If any substances considered addictive have been prescribed, the report shall identify a
2 program for the time limited use of any such substances.”

3 “The Board may require the single coordinating physician, nurse practitioner, or
4 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
5 addictive medicine.”

6 Condition 17: Submit to Tests and Samples. “Respondent, at his expense, shall
7 participate in a random, biological fluid testing or a drug screening program which the Board
8 approves. The length of time and frequency will be subject to approval by the Board.
9 Respondent is responsible for keeping the Board informed of Respondent’s current telephone
10 number at all times. Respondent shall also ensure that messages may be left at the telephone
11 number when he is not available and ensure that reports are submitted directly by the testing
12 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
13 to the Board by the program and Respondent shall be considered in violation of probation.”

14 “In addition, Respondent, at any time during the period of probation, shall fully
15 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
16 tests and samples as the Board or its representatives may require for the detection of alcohol,
17 narcotics, hypnotics, dangerous drugs, or other controlled substances.”

18 “If Respondent has a positive drug screen for any substance not legally authorized
19 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
20 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
21 from practice pending the final decision on the petition to revoke probation or the accusation.
22 This period of suspension will not apply to the reduction of this probationary time period.”

23 “If Respondent fails to participate in a random, biological fluid testing or drug
24 screening program within the specified time frame, Respondent shall immediately cease practice
25 and shall not resume practice until notified by the Board. After taking into account documented
26 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
27 Board may suspend Respondent from practice pending the final decision on the petition to revoke

28 ///

1 probation or the accusation. This period of suspension will not apply to the reduction of this
2 probationary time period."

3 **GROUND FOR REVOKING PROBATION**

4 17. Grounds exist for revoking probation and imposing the order of
5 revocation of Respondent's license for failing to comply with the following terms:

6 Condition No. 1: Respondent failed to obey all laws, as follows:

7 a. On or about January 10, 2007, Respondent was convicted by the court on a
8 plea of nolo contendere for violating one count of Vehicle Code section 23152, subdivision (b), a
9 misdemeanor (driving while having a 0.08% or higher blood alcohol), in the Superior Court of
10 California, County of Los Angeles, Norwalk Judicial District, Case No. 6BF0551101 entitled
11 *The People of the State of California v. Jeffrey Darlington Miller*.

12 b. In addition, Respondent, by his own admission, admitted to diverting
13 morphine from his job at Little Company of Mary in San Pedro, California.

14 Condition No. 2: Respondent failed to fully comply with the conditions of the
15 Board's probation program, by failing to comply with Conditions Nos. 1, 12, 15, 16, and 17
16 above.

17 Condition No. 12: Respondent violated the conditions of his probation, as
18 indicated in Conditions Nos. 1, 2, 15, 16, and 17 above.

19 Condition No. 15: Respondent failed to participate in a treatment or rehabilitation
20 program, by failing to provide evidence of participation in a Nurse Support Group and
21 Alcoholics Anonymous or Narcotics Anonymous meetings.

22 Condition No. 16: Respondent failed to abstain for the use of mind-altering
23 drugs, by his own admission in his letter, dated December 13, 2006, admitting to the use of
24 alcohol, crack, heroin, morphine, and opiates.

25 Condition No. 17: Respondent failed to submit to tests and samples by failing to
26 test on August 30, 2006, September 26, 2006, October 19, 2006, November 2, 2006,
27 November 21, 2006, and December 6, 2006.

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


4 1. Revoking the probation that was granted by the Board of Registered
5 Nursing in Case No.2005-105 and imposing the disciplinary order that was stayed thereby
6 revoking Registered Nurse License No. 463913 issued to Jeffrey D. Miller;

7 2. Revoking or suspending Registered Nurse License No. 463913, issued to
8 Jeffrey D. Miller;

9 3. Ordering Jeffrey D. Miller to pay the Board of Registered Nursing the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3;

12 4. Taking such other and further action as deemed necessary and proper.

13 DATED: 6/15/07

14
15
16 
RUTH ANN TERRY, M.P.H, R.N
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant
17
18
19
20

21 LA2007600383
22 60209259.wpd
23
24
25
26
27
28

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Jeffrey D. Miller
6814 East De Leon Road
Long Beach, CA 90815

Registered Nurse License No. 463913

Respondent

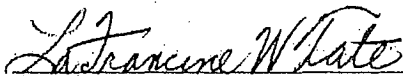
Case No. 2005-105

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on December 30, 2005.

IT IS SO ORDERED November 29, 2005.



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BILL LOCKYER, Attorney General
of the State of California
ERNEST MARTINEZ, State Bar No. 74752
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2544
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2005-105

JEFFREY D. MILLER
2116 Magnolia Avenue
Long Beach, CA 90804

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Registered Nurse License No. 463913

Respondent.

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Registered Nursing of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, and by Ernest Martinez, Deputy Attorney General.

2. Respondent Miller, Jeffrey D. (Respondent) is represented in this proceeding by attorney Michael Todaro, whose address is 7755 Center Ave., Suite 1100, Huntington Beach, CA 92647.

3. On or about March 31, 1991, the Board of Registered Nursing issued Registered Nurse License No. 463913 to Jeffrey D. Miller (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2006, unless renewed.

JURISDICTION

4. Accusation No. 2005-105 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 11, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2005-105 is attached as exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2005-105. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

///

///

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 2005-105.

4 9. Respondent agrees that his Registered Nurse License is subject to
5 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
6 Disciplinary Order below.

7 RESERVATION

8 10. The admissions made by Respondent herein are only for the purposes of
9 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Board of Registered
14 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
15 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
16 and settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 12. The parties understand and agree that facsimile copies of this Stipulated
24 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
25 force and effect as the originals.

26 13. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Board may, without further notice or formal proceeding, issue and enter the
28 following Disciplinary Order:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No.463913 issued to Respondent Jeffrey D. Miller is revoked. However, the revocation is stayed and Respondent and his license is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

///

1 3. **Report in Person.** Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated
3 representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of
5 residency or practice as a registered nurse outside of California shall not apply toward a reduction
6 of this probation time period. Respondent's probation is tolled, if and when he resides outside of
7 California. Respondent must provide written notice to the Board within 15 days of any change of
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where he has ever been
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
12 provide information regarding the status of each license and any changes in such license status
13 during the term of probation. Respondent shall inform the Board if he applies for or obtains a
14 new nursing license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation,
16 shall submit or cause to be submitted such written reports/declarations and verification of actions
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency
22 in every state and territory in which he has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24
25 hours per week for 6 consecutive months or as determined by the Board.

26 ~~For purposes of compliance with the section, "engage in the practice of registered~~
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice
2 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
3 Board.

4 If Respondent has not complied with this condition during the probationary term,
5 and Respondent has presented sufficient documentation of his good faith efforts to comply with
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may
7 grant an extension of Respondent's probation period up to one year without further hearing in
8 order to comply with this condition. During the one year extension, all original conditions of
9 probation shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent
11 shall obtain prior approval from the Board before commencing or continuing any employment,
12 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
13 performance evaluations and other employment related reports as a registered nurse upon request
14 of the Board.

15 Respondent shall provide a copy of this Decision to his employer and immediate
16 supervisors prior to commencement of any nursing or other health care related employment.

17 In addition to the above, Respondent shall notify the Board in writing within
18 seventy-two (72) hours after he obtains any nursing or other health care related employment.
19 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
20 or separated, regardless of cause, from any nursing, or other health care related employment with
21 a full explanation of the circumstances surrounding the termination or separation.

22 **8. Supervision.** Respondent shall obtain prior approval from the Board
23 regarding Respondent's level of supervision and/or collaboration before commencing or
24 continuing any employment as a registered nurse, or education and training that includes patient
25 care.

26 ~~Respondent shall practice only under the direct supervision of a registered nurse~~
27 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
28 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)

1 are approved.

2 Respondent's level of supervision and/or collaboration may include, but is not
3 limited to the following:

4 (a) Maximum - The individual providing supervision and/or collaboration is
5 present in the patient care area or in any other work setting at all times.

6 (b) Moderate - The individual providing supervision and/or collaboration is in
7 the patient care unit or in any other work setting at least half the hours Respondent works.

8 (c) Minimum - The individual providing supervision and/or collaboration has
9 person-to-person communication with Respondent at least twice during each shift worked.

10 (d) Home Health Care - If Respondent is approved to work in the home health
11 care setting, the individual providing supervision and/or collaboration shall have person-to-
12 person communication with Respondent as required by the Board each work day. Respondent
13 shall maintain telephone or other telecommunication contact with the individual providing
14 supervision and/or collaboration as required by the Board during each work day. The individual
15 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
16 site visits to patients' homes visited by Respondent with or without Respondent present.

17 9. **Employment Limitations.** Respondent shall not work for a nurse's
18 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
19 traveling nurse, or for an in-house nursing pool.

20 Respondent shall not work for a licensed home health agency as a visiting nurse
21 unless the registered nursing supervision and other protections for home visits have been
22 approved by the Board. Respondent shall not work in any other registered nursing occupation
23 where home visits are required.

24 Respondent shall not work in any health care setting as a supervisor of registered
25 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
26 nurses and/or unlicensed assistive personnel on a case-by-case basis.

27 Respondent shall not work as a faculty member in an approved school of nursing
28 or as an instructor in a Board approved continuing education program.

1 Respondent shall work only on a regularly assigned, identified and predetermined
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the
4 Board may request documentation to determine whether there should be restrictions on the hours
5 of work.

6 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
7 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
8 than six months prior to the end of his probationary term.

9 Respondent shall obtain prior approval from the Board before enrolling in the
10 course(s). Respondent shall submit to the Board the original transcripts or certificates of
11 completion for the above required course(s). The Board shall return the original documents to
12 Respondent after photocopying them for its records.

13 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
14 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
15 amount of \$3,182.50. Respondent shall be permitted to pay these costs in a payment plan
16 approved by the Board, with payments to be completed no later than three months prior to the
17 end of the probation term.

18 If Respondent has not complied with this condition during the probationary term,
19 and Respondent has presented sufficient documentation of his good faith efforts to comply with
20 this condition, and if no other conditions have been violated, the Board, in its discretion, may
21 grant an extension of Respondent's probation period up to one year without further hearing in
22 order to comply with this condition. During the one year extension, all original conditions of
23 probation will apply.

24 12. **Violation of Probation.** If Respondent violates the conditions of his
25 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
26 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
27 license.

28 ///

1 If during the period of probation, an accusation or petition to revoke probation has
2 been filed against Respondent's license or the Attorney General's Office has been requested to
3 prepare an accusation or petition to revoke probation against Respondent's license, the
4 probationary period shall automatically be extended and shall not expire until the accusation or
5 petition has been acted upon by the Board.

6 13. **License Surrender.** During Respondent's term of probation, if he ceases
7 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
8 probation, Respondent may surrender his license to the Board. The Board reserves the right to
9 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
10 take any other action deemed appropriate and reasonable under the circumstances, without
11 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
12 will no longer be subject to the conditions of probation.

13 Surrender of Respondent's license shall be considered a disciplinary action and
14 shall become a part of Respondent's license history with the Board. A registered nurse whose
15 license has been surrendered may petition the Board for reinstatement no sooner than the
16 following minimum periods from the effective date of the disciplinary decision:

17 (1) Two years for reinstatement of a license that was surrendered for any
18 reason other than a mental or physical illness; or

19 (2) One year for a license surrendered for a mental or physical illness.

20 14. **Physical Examination.** Within 45 days of the effective date of this
21 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
22 physician assistant, who is approved by the Board before the assessment is performed, submit an
23 assessment of the Respondent's physical condition and capability to perform the duties of a
24 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
25 medically determined, a recommended treatment program will be instituted and followed by the
26 Respondent with the physician, nurse practitioner, or physician assistant providing written
27 reports to the Board on forms provided by the Board.

28 ///

1 If Respondent is determined to be unable to practice safely as a registered nurse,
2 the licensed physician, nurse practitioner, or physician assistant making this determination shall
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
5 shall immediately cease practice and shall not resume practice until notified by the Board.
6 During this period of suspension, Respondent shall not engage in any practice for which a license
7 issued by the Board is required until the Board has notified Respondent that a medical
8 determination permits Respondent to resume practice. This period of suspension will not apply
9 to the reduction of this probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within
11 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
12 practice until notified by the Board. This period of suspension will not apply to the reduction of
13 this probationary time period. The Board may waive or postpone this suspension only if
14 significant, documented evidence of mitigation is provided. Such evidence must establish good
15 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
16 provided. Only one such waiver or extension may be permitted.

17 **15. Participate in Treatment/Rehabilitation Program for Chemical**
18 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
19 period or shall have successfully completed prior to commencement of probation a Board-
20 approved treatment/rehabilitation program of at least six months duration. As required, reports
21 shall be submitted by the program on forms provided by the Board. If Respondent has not
22 completed a Board-approved treatment/rehabilitation program prior to commencement of
23 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
24 a program. If a program is not successfully completed within the first nine months of probation,
25 the Board shall consider Respondent in violation of probation.

26 ~~Based on Board recommendation, each week Respondent shall be required to~~
27 ~~attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics~~
28 ~~Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed~~

1 by the Board. If a nurse support group is not available, an additional 12-step meeting or
2 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
3 such attendance to the Board during the entire period of probation. Respondent shall continue
4 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
5 mental health examiner and/or other ongoing recovery groups.

6 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
7 shall completely abstain from the possession, injection or consumption by any route of all
8 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
9 the same are ordered by a health care professional legally authorized to do so as part of
10 documented medical treatment. Respondent shall have sent to the Board, in writing and within
11 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
12 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
13 medication will no longer be required, and the effect on the recovery plan, if appropriate.

14 Respondent shall identify for the Board a single physician, nurse practitioner or
15 physician assistant who shall be aware of Respondent's history of substance abuse and will
16 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
17 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
18 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
19 condition. If any substances considered addictive have been prescribed, the report shall identify a
20 program for the time limited use of any such substances.

21 The Board may require the single coordinating physician, nurse practitioner, or
22 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
23 addictive medicine.

24 **17. Submit to Tests and Samples.** Respondent, at his expense, shall
25 participate in a random, biological fluid testing or a drug screening program which the Board
26 approves. ~~The length of time and frequency will be subject to approval by the Board.~~
27 Respondent is responsible for keeping the Board informed of Respondent's current telephone
28 number at all times. Respondent shall also ensure that messages may be left at the telephone

1 number when he is not available and ensure that reports are submitted directly by the testing
2 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
3 to the Board by the program and Respondent shall be considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully
5 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
6 tests and samples as the Board or its representatives may require for the detection of alcohol,
7 narcotics, hypnotics, dangerous drugs, or other controlled substances.

8 If Respondent has a positive drug screen for any substance not legally authorized
9 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
10 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
11 from practice pending the final decision on the petition to revoke probation or the accusation.
12 This period of suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or drug
14 screening program within the specified time frame, Respondent shall immediately cease practice
15 and shall not resume practice until notified by the Board. After taking into account documented
16 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
17 Board may suspend Respondent from practice pending the final decision on the petition to
18 revoke probation or the accusation. This period of suspension will not apply to the reduction of
19 this probationary time period.

20 18. **Mental Health Examination.** Respondent shall, within 45 days of the
21 effective date of this Decision, have a mental health examination including psychological testing
22 as appropriate to determine his capability to perform the duties of a registered nurse. The
23 examination will be performed by a psychiatrist, psychologist or other licensed mental health
24 practitioner approved by the Board. The examining mental health practitioner will submit a
25 written report of that assessment and recommendations to the Board. All costs are the
26 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
27 result of the mental health examination will be instituted and followed by Respondent.

28 ///

1 If Respondent is determined to be unable to practice safely as a registered nurse,
2 the licensed mental health care practitioner making this determination shall immediately notify
3 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
4 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
5 practice and may not resume practice until notified by the Board. During this period of
6 suspension, Respondent shall not engage in any practice for which a license issued by the Board
7 is required, until the Board has notified Respondent that a mental health determination permits
8 Respondent to resume practice. This period of suspension will not apply to the reduction of this
9 probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within
11 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
12 practice until notified by the Board. This period of suspension will not apply to the reduction of
13 this probationary time period. The Board may waive or postpone this suspension only if
14 significant, documented evidence of mitigation is provided. Such evidence must establish good
15 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
16 provided. Only one such waiver or extension may be permitted.

17 **19. Therapy or Counseling Program.** Respondent, at his expense, shall
18 participate in an on-going counseling program until such time as the Board releases him from this
19 requirement and only upon the recommendation of the counselor. Written progress reports from
20 the counselor will be required at various intervals.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael Todaro, Esq. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

8/24/05

JEFFREY D. MILLER, R.N.
Respondent

ATTORNEY'S APPROVAL AND CONCURRENCE

I have read and fully discussed with Respondent Jeffrey D. Miller the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve and concur as to its form and content.

DATED:

8/29/05

MICHAEL TODARO, Esq.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED:

8/31/05

BILL LOCKYER, Attorney General
of the State of California

ERNEST MARTINEZ
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Accusation No. 2005-105

1 BILL LOCKYER, Attorney General
of the State of California
2 ERNEST MARTINEZ, State Bar No. 74752
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2544
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
BOARD OF REGISTERED NURSING
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2005-105

11 JEFFREY D. MILLER
2116 Magnolia Avenue
12 Long Beach, CA 90804

A C C U S A T I O N

13 Registered Nurse License No. 463913

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about March 31, 1991, the Board of Registered Nursing issued
22 Registered Nurse License No. 463913 to Jeffrey D. Miller (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on August 31, 2006, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1

2

6

11

12

14

15

17

18

21

22

25

1 defined in Section 4022.

2 "(b) Use any controlled substance as defined in Division 10 (commencing with
3 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
4 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
5 injurious to himself or herself, any other person, or the public or to the extent that such use
6 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
7 license.

8

9 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
10 entries in any hospital, patient, or other record pertaining to the substances described in
11 subdivision (a) of this section."

12 8. California Code of Regulations, title 16, section 1442, states:

13 "As used in Section 2761 of the code, 'gross negligence' includes an extreme
14 departure from the standard of care which, under similar circumstances, would have ordinarily
15 been exercised by a competent registered nurse. Such an extreme departure means the repeated
16 failure to provide nursing care as required or failure to provide care or to exercise ordinary
17 precaution in a single situation which the nurse knew, or should have known, could have
18 jeopardized the client's health or life."

19 9. California Code of Regulations, title 16, section 1443.5 states:

20 "A registered nurse shall be considered to be competent when he/she consistently
21 demonstrates the ability to transfer scientific knowledge from social, biological and physical
22 sciences in applying the nursing process, as follows:

23 "(1) Formulates a nursing diagnosis through observation of the client's physical
24 condition and behavior, and through interpretation of information obtained from the client and
25 others, including the health team.

26 "(2) Formulates a care plan, in collaboration with the client, which ensures that
27 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
28 protection, and for disease prevention and restorative measures.

1 "(3) Performs skills essential to the kind of nursing action to be taken, explains
2 the health treatment to the client and family and teaches the client and family how to care for the
3 client's health needs.

4 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
5 subordinates and on the preparation and capability needed in the tasks to be delegated, and
6 effectively supervises nursing care being given by subordinates.

7 "(5) Evaluates the effectiveness of the care plan through observation of the
8 client's physical condition and behavior, signs and symptoms of illness, and reactions to
9 treatment and through communication with the client and health team members, and modifies the
10 plan as needed.

11 "(6) Acts as the client's advocate, as circumstances require, by initiating action to
12 improve health care or to change decisions or activities which are against the interests or wishes
13 of the client, and by giving the client the opportunity to make informed decisions about health
14 care before it is provided."

15 10. Section 11170 of the Health and Safety Code provides: "no person shall
16 prescribe, administer, or furnish a controlled substance for himself."

17 11. Section 11173 of the Health and Safety Code states:

18 "(a) No person shall obtain or attempt to obtain controlled substances, or procure
19 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
20 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

21 "(b) No person shall make a false statement in any prescription, order, report, or
22 record, required by the division."

23 12. California Code of Regulations, title 16, section 1409.1, states:

24 "Each person holding a certificate, license or any other authority to practice
25 nursing or engage in any activity under any laws administered by the board shall file his/her
26 current name and mailing address with the board at its office in Sacramento within thirty (30)
27 days after any change of name or mailing address, giving both old and new name, and address, as
28 appropriate."

1 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
2 request the administrative law judge to direct a licensee found to have committed a violation or
3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
4 and enforcement of the case.

5 14. CONTROLLED SUBSTANCES

6 a. "Cocaine" is a Schedule I controlled substance as designated by Health
7 and Safety Code section 11054(f)(1).

8 b. "Demerol", a brand of meperidine hydrochloride, a derivative of pethidine,
9 is a Schedule II controlled substance as designated by Health and Safety Code section
10 11055(c)(16) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

11 c. "Morphine/Morphine Sulfate", is a Schedule II controlled substance
12 pursuant to Health and Safety Code Section 11055(b)(1)(M) and is categorized as a dangerous
13 drug pursuant to Business and Professions Code section 4022.

14 d. "Opiate", a base derivative for numerous Schedule I narcotics, is a
15 Schedule I Controlled Substance

16 d. "Toradol", generic for Acular, is a Scheduled III controlled substance
17 pursuant to Health and Safety Code Section 11056 and is categorized as a dangerous drug
18 pursuant to Business and Professions Code section 4022.

19 FIRST CAUSE FOR DISCIPLINE

20 (Falsify Hospital Records)

21 15. Respondent is subject to disciplinary action under section 2761,
22 subdivision (a) of the Code on the grounds of unprofessional conduct as defined in section 2762,
23 subdivision (e) of the Code, for violating section 11173, subdivision (b) of the Health and Safety
24 Code, in that while on duty as a registered nurse at California Hospital Medical Center (CHMC),

25 Los Angeles, California, Respondent falsified, made grossly incorrect, grossly inconsistent, or
26 unintelligible entries in hospital and patient records pertaining to controlled substances and
27 dangerous drugs in the following respects:

28 a. On May 6, 1997, Respondent signed out for Demerol 100mg. in the

1 Narcotic Controlled Sheet (NCS) for patient AP #543962. On May 6, 1997, at 1050 hours,
2 Respondent documented in the patient's Progress Notes (PN) the administration of 50mg of
3 Demerol, IVP but failed to document the administration of the dosage in the patient's Medication
4 Administration Record (MAR). Respondent failed to record wastage or otherwise account for
5 50mg of Demerol. The physician's order was for Demerol 50mg.

6 b. On May 6, 1997, Respondent signed out for Morphine 10mg. in the NCS
7 for patient MM #667860. On May 6, 1997, at 1700 and at 1715 hours, Respondent charted in the
8 Emergency Room Assessment (ERA) the administration of 2 mg Morphine at each time.
9 Respondent documented that he wasted Morphine 10mg. No physician's order was given for this
10 medication.

11 c. On April 13, 1997, at 0010 hours, Respondent signed out for Morphine
12 10mg. and at 0145 hours, he signed out for Morphine 10mg. for patient JP #665914 in the NCS.
13 On April 13, 1997, at 0015 hours, Respondent charted in the patient's ERA the administration of
14 5mg. Morphine. At 0030 hours, he charted the administration of 6mg. Morphine in the patient's
15 ERA, and at 0050 hours, he charted the administration of 3mg. Morphine in the patient's ERA.
16 Respondent failed to record wastage or otherwise account for Morphine 6mg. The physician's
17 order was for 2mg. to 6mg. of Morphine to be administered to patient.

18 d. On April 1, 1997, at 1848 hours, Respondent signed out for Pentobarbital
19 100mg. for patient RO # 664907 on the NCS. On April 1, 1997 at 1848 hours, Respondent
20 charted in the patient's ERA the administration of Demerol 50mg. Respondent failed to record
21 wastage or otherwise account for Pentobarbital 100mg. No physician's order was given for
22 Demerol or Phentobarbital.

23 e. On April 1, 1997, at 2120 hours, Respondent signed out for Demerol
24 50mg. for patient CR #664936 in the NCS and at 0135 hours, he signed out for Demerol 50mg.
25 for patient CR #664936 in the NCS. At 2020 hours, Respondent charted the administration of
26 Toradol 30mg. in the patient ERA. At 2120 hours, Respondent charted the administration of
27 50mg. Demerol in the patient's ERA and at 0135 hours, he charted the administration of 50mg.
28 Demerol in the patient's ERA. The physician's order was for Toradol 30mg. and Demerol 50mg.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 22
- 22
- 22
- 22
- 22

2

3

4

5

6

7

Q

0

2

1 b. On or about June 22, 2000, Respondent submitted to a urine drug screen
2 test. On or about June 23, 2000 the screen test was positive for Opiates.

3 c. On or about May 14, 1997, in an interview with Administrative Directors
4 and Department Supervisor of California Hospital Medical Center, Respondent admitted he had a
5 chemical and alcohol addiction.

6 FOURTH CAUSE FOR DISCIPLINE

7 (Failed to Maintain Current Address With Board)

8 18. Respondent is subject to disciplinary action under section 2761,
9 subdivision (d), of the Code for violating California Code of Regulations, title 16, section 1409.1
10 in that he failed to maintain a current address with the Board.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License No. 463913, issued to
15 Jeffrey Darlington Miller.

16 2. Ordering Jeffrey Darlington Miller to pay the Board of Registered Nursing
17 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3;

19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 1/5/05

21
22 *Signed for*
23 RUTH ANN TERRY, M.P.H., R.N.
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 Complainant